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SUBJECT: Argentina: Important Issues at Stake in Proposed New Media Law

Ref: (A) Buenos Aires 803

(B) Buenos Aires 800
(C) Buenos Aires 791
(D) Buenos Aires 737
(E) Buenos Aires 715
(F) Buenos Aires 663
(G) Buenos Aires 587
(H) Buenos Aires 531

¶1. (SBU) Summary: Gabriel Mariotto, Director of Argentina's FCC equivalent agency COMFER, will be in Washington on June 19-20 to meet with FCC officials, Congressional leaders, and media associations. The Government of Argentina is in the final stages of drafting an ambitious new federal broadcasting law that could radically transform the current 1980-era law that was passed by decree (with subsequent modifications) under the military dictatorship. U.S.-based media firms here have big interests: they have collectively invested over $800 million in Argentina in the last two years, created 2,700 jobs, and are using Argentina as an important regional hub for their growing businesses, contributing to Argentina's - and the region's - economy and national innovation. In addition to these commercial interests, there are vital issues relating to freedom of expression at stake and we have been approached by key media and press figures expressing concern (see refs C, F, G). We would like to point out to our U.S. Government colleagues the most important commercial issues under consideration in the GOA's draft media law -- potential quotas on local signal, and potential advertising time limits -- that could affect the many U.S.-based media companies here, and we ask that you raise them in your conversations with Mariotto. Also important to consider is the backdrop of the GOA's own conflicts with the powerful media conglomerate, Clarin Group. There are legitimate media monopoly issues at stake, but also concerns widespread in local media that the government will seek to impose more controls on content and media freedom. The GOA has made a point of wanting to learn from the U.S. experience. We have an excellent opportunity to possibly positively influence the drafting a first class media law. End Summary.

Top Comfer Officials Head to Washington

¶2. (SBU) Gabriel Mariotto, Head of the Federal Broadcasting Commission (COMFER), Argentina's FCC equivalent, and his top deputy Omar Szulak, met with Ambassador on June 11 to discuss their upcoming trip to Washington, and to review the latest GOA efforts to advance this proposed bill through the GOA Congress. (Please read reftels for further background on this issue.) Mariotto and Szulak

told the Ambassador that they understand our commercial concerns about some aspects of the draft GOA media law, and applauded FCS's collaborative efforts in bringing together all the U.S.-based media firms to discuss the bill with his team (ref C). He said that their schedule will include June 19 meetings with Mr. John Giusti, Acting Chief of the FCC's International Bureau, Washington Senator Maria Cantwell, and Congressman Jay Inslee, and that Argentine Ambassador to the United States, Hector Timerman, has been working to set up their schedule.

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U.S. media firms in Argentina invest and create jobs
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¶3. (SBU) U.S.-based media firms here have big interests in the outcome of any new media law. They have collectively invested over $800 million in Argentina in the last two years, and have created about 2,700 direct jobs and over 6,000 indirect jobs through their extensive contracting arrangements with local equipment and service providers. They are using Argentina as an important regional hub for their growing businesses, and contributing to Argentina's - and the region's - economy and national innovation. U.S. players here include Fox Latin America, Turner Broadcasting (a Time Warner company), MTV (a Viacom company), Disney, HBO, and Discovery. Buenos Aires is now the regional hub for most of the major U.S. broadcasters and producers of Pay TV programming in Latin America. Turner, Fox, Disney, Discovery, and MTV have all located their Latin American headquarters in Buenos Aires, attracted by the highly skilled, creative, multi-cultural and multilingual talent pool, as well as the large number of qualified local firms capable of providing equipment and services to this industry, which is highly dependent on contractors. In 2007, over 700 audiovisual works, including movies, TV programs, documentaries, and commercials were produced in Buenos Aires.

Issues at stake in new media law

¶4. (SBU) Ambassador went over the points above with Mariotto. Mariotto said he recognized and valued U.S. investment. He noted that FCS had worked closely with him and his team in recent weeks, including by organizing an important meeting for them with several U.S.-based media entities in an effort to demonstrate the vital issues at stake for both U.S. players and the GOA (refs D, E). The issue of greatest concern to U.S. broadcasters is a requirement in early drafts of the bill that 60% of the signals available through Pay TV (signals transmitted by a cable operator through subscription) be Argentine. The Ambassador and FCS pointed out to Mariotto and his team last week, as have U.S. companies, that there are not enough local signals in Argentina today to comply with this proposed quota. Although COMFER officials and local media leaders know this, this quota is seen by some here as a way to foster (or protect) emerging and future local media industries. The Ambassador and FCS were able to point out to them that, in fact, these U.S. firms and their many Argentine contractors are actually producing content for the entire region, and many of the apparently "foreign" signals are actually transmitting content "made in Argentina." Mariotto said he recognized these facts and was favorably inclined to U.S. companies' arguments, but he noted that he faced heavy lobbying from local media.

¶5. (SBU) The other commercial issue concerns time limits on advertising. Early media bill drafts had severely limited Pay TV advertising time, anywhere from zero to eight minutes per hour. Post and U.S. companies explained to COMFER officials how the industry is structured today, that advertising is now the main source of income for Pay TV, and that 48 minutes is the international standard for one-hour shows, with 12 minutes of advertising. This advertising norm is due to the fact that the fees paid by cable operators for broadcast rights are trending effectively toward zero, due to the concentration of pay TV ownership that has resulted in recent years from mergers and acquisitions by the market leaders. Again, Mariotto said he is favorably inclined to U.S. arguments, but local media were pressing hard.

¶6. (SBU) Separately, last week Ambassador and DCM raised these issues with the President's legal advisor (ref A). He said he was favorably inclined toward U.S. arguments and the GOA wanted to put best practices from the U.S. and Europe into this new law.

Backdrop: GOA's Feud with the powerful Clarin Group and Free Speech Issues

¶7. (SBU) Apart from the specific commercial issues related to the proposed media law and U.S. media interests, an important backdrop to understand is the GOA's ongoing complaints of negative media coverage, particularly by the powerful Clarin Group, as well as Clarin's dominant positions in print, TV, cable, and radio (refs A, C, G, H). While other media players and observers largely share concerns about Clarin's dominant position, they generally see these complaints as an effort by the GOA to win more favorable treatment by the media, rather than an example of distorted media coverage. Many media commentators believe that GOA efforts to rewrite its media laws are at least partly motivated by a desire for a tamer, more compliant media, and to also limit Clarin's presence in these sectors, more than any GOA desire (as it often states) to promote a greater plurality of views of social actors. Ironically, it was the GOA under former President Nestor Kirchner that granted the regulatory approvals for Clarin that enabled the media group to grow to its current dominant size. These included a ten-year television/radio license and a cable merger, which together give it overwhelming dominance of the Argentine media. Mariotto told the Ambassador June 11 that he intended that the new law should reinforce freedom of expression and expand access to media as well as competition. GOA Legal Secretary Carlos Zannini offered the same assurances (ref A). Both also acknowledged concern among Argentine journalists. Both also said they looked forward to learning about U.S. practices for dealing with worries about ownership concentration, new technologies, and free speech.

Biographies of Mariotto and Szulak

¶8. (SBU) Mr. Gabriel Mariotto is a former dean of the Social Sciences Department at the University of Lomas de Zamora in Buenos Aires. He has also previously worked as the Under Secretary of Communications within the Secretariat of the Media. He is reportedly a close confidant of President Cristina de Kirchner and her husband, former President Nestor Kirchner. (At his June 11 lunch with the Ambassador, described in ref A, Cabinet Chief Alberto Fernandez identified himself as Mariotto's political patron.) Omar Szulak has a B.A. degree in Communications from the University of Lomas de Zamora in Buenos Aires, and a M.A. in Marketing and Communications from the University of Maryland. He is currently also the president of the Media Lab at the University of Lomas de Zamora.

Comment

¶9. (SBU) We have been able to communicate to Messrs. Mariotto and Szulak (as well as key inner circle contacts Alberto Fernandez and Carlos Zannini, as described in ref A) the importance of our concerns, including possible quotas on local signals and limits on advertising. Nevertheless, as the process of drafting this legislation still has longer to go, and given that there are powerful local broadcasters and cable firms who could oppose our positions, we believe that our Washington colleagues would be well advised to also deliver this important message about quotas and advertising to appropriate Argentine interlocutors, starting with Mariotto and Szulak.

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